

UNITED STATES OF AMERICA

DISTRICT COURT OF MASSACHUSETTS

CIVIL ACTION NO. 04 10156 RWZ

AFFIDAVIT OF PLAINTIFF

I, Phillip King, plaintiff-petitioner in the above civil action hereby depose, and based upon his own personal knowledge states the following to be true and accurate:

1. Plaintiff's legal residence is 88 Walnut Avenue in Roxbury, Suffolk County, MA 02119. Plaintiff's Petition for Preliminary Injunctive Relief, ¶1.

2. Plaintiff is currently incarcerated at MCI Shirley Medium in Shirley, Middlesex, MA 01464. Plaintiff's Complaint, ¶1.

3. Plaintiff wrote to defendant on 08-25-03 to request an absentee ballot application. Plaintiff's Complaint, Exhibit A.

4. Defendant's agent, John Donovan, Head Assistant Registrar of Voter Election Commission, responds to plaintiff on 09-03-03, that it appears he is not qualified to register as a voter, since he is a person confined to a correctional facility by reason of a felony conviction, but that his application may be reviewed otherwise. Plaintiff's Complaint, Exhibit B.

5. Plaintiff replies to John Donovan on 09-08-03 to explain his qualifications, in that he was convicted and punished for criminal activity prior to enactment of St. 2001, c. 150, rendering the law violative of ex post facto clauses and implicating a bill of attainder, as far as the plaintiff's eligibility to vote is concerned. Plaintiff's Complaint, Exhibit C.

6. Defendant's agent, Ronald Nelson, Asst. Corp. Counsel, responds to plaintiff on 09-18-03, that plaintiff must forward to the Election Department proof of his incarceration, which is to be evaluated for his eligibility to vote, without which the Department would not act on his request. Plaintiff's Complaint, Exhibit D.

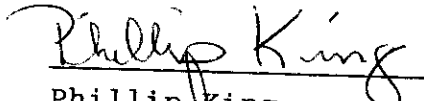
7. Plaintiff replies to Ronald Nelson on 09-21-03 to state that he will comply and encloses a copy of the docket entries in his criminal case as demanded. Plaintiff's Complaint, Exhibit E.

8. Defendant's agent, Wendy Plotkin, Asst. Corp. Counsel, writes to plaintiff on 10-30-03 to inform him that BOSTON cannot provide him with an absentee ballot due to his current incarceration. Plaintiff's Complaint, Exhibit F.

9. Plaintiff, on 11-07-03, files for injunctive and declaratory relief in the Suffolk Superior Court.

10. Defendant, on 01-23-04, removes the civil action to the Federal District Court. Docket No. 04 10155 RWZ.

Signed under the pains and penalties of perjury this 11th day of February 2004, at Shirley, Middlesex, MA 01464.

  
Phillip King, pro se  
MCI Shirley Medium  
Box 1218  
Shirley, MA 01464

NOTARY

SWORN to and subscribed before me this 23rd day of February 2004, at Shirley, Middlesex, MA 01464.

  
Notary Public [Seal]

My commission expires on 3/7/05.

AV 11

From City or Town Clerk or  
Election Commissioners of:

**Boston, 02201**

city or town

Massachusetts

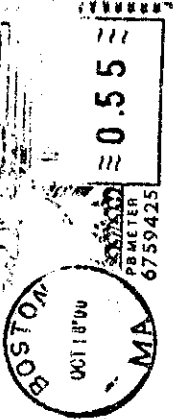
STATE ELECTION BALLOT  
PLEASE FORWARD IMMEDIATELY

**RUSH**

(zip)

**FIRST CLASS**

Clerk:  
Place Stamp  
here.



12-3-7

PHILLIP S KING

PO BOX 1218

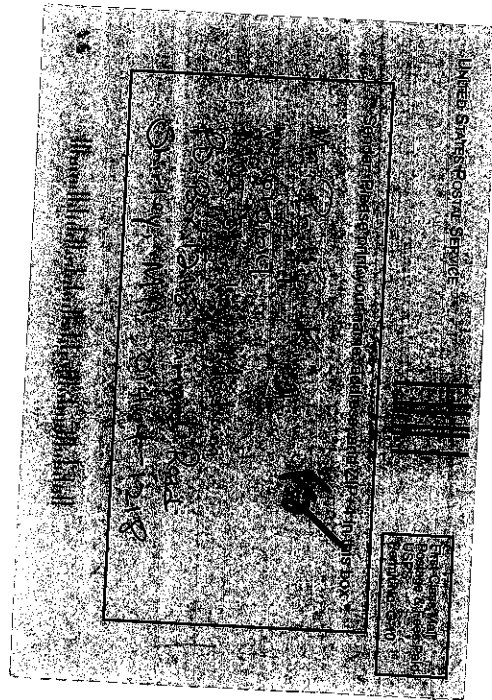
HARVARD RD

SHIRLEY, MA. 01464

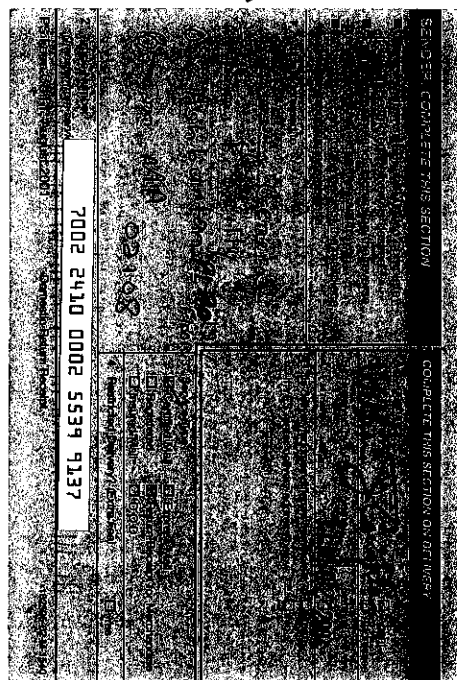
01464-1218

11/10/00

*Exhibit A*



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7002 2410 0002 5539 9137

|   |         |
|---|---------|
| U.S. FIRST CLASS MAIL RECEIPT<br>(Domestic Mail Only, No Postage Necessary if Mailed Properly)<br>For delivery information visit our website at www.usps.com          |         |
| <b>OFFICIAL USE</b>   |         |
| Postage   | \$ 1.06 |
| Certified Fee   | 3.30    |
| Return Receipt Fee<br>(Insurance Required)  | 1.75    |
| Restricted Delivery Fee<br>(Insurance Required)   |         |
| Total Postage & Fees  | \$ 5.11 |
| Sent to: <u>Anthony G. Gennaro</u><br>Official Use No. <u>0002 5539 9137</u><br>or PO Box No. <u>02108</u><br>City, State, ZIP+4 <sup>®</sup> <u>Boston, MA 02108</u> |         |
| PS Form 3800, June 2002 See Reverse for Instructions  |         |

**Certified Mail Provides:**

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- A record of delivery kept by the Postal Service for two years

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- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For insurance, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain a Return Receipt, attach a postage stamp and a Return Receipt (PS Form 3811) to the article and mail as directed. To receive a fee waiver for a Return Receipt, attach a Return Receipt to the article and mail as directed. To receive a fee waiver for a Return Receipt, attach a Return Receipt to the article and mail as directed.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the envelope with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article to the post office and attach a postage stamp and mail as directed. The return receipt is not needed, dated and signed with postage and mail.

**IMPORTANT:** Save this receipt and present it when making an inquiry. Internet access to delivery information is not available on mail addressed to APOs and FPOs.

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CITY OF BOSTON  
CITY HALL  
BOSTON, MA 02201

2. Article Number

(Transfer from service label)

7002 2410 0002 5539 8895

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-15

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

Joseph E. McDevitt Jr.

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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U.S. Postal Service™

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|   |         |
|---|---------|
| Postage   | \$ 1.29 |
| Certified Fee                                     | 2.30    |
| Return Receipt Fee<br>(Endorsement Required)      | 1.75    |
| Restricted Delivery Fee<br>(Endorsement Required) |         |
| Total Postage & Fees                              | \$ 5.34 |

Postmark  
Here

AUG 10 2001

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or PO Box No.

City Hall

City, State, ZIP+4

Boston, MA 02201

PS Form 3800, June 2002

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